IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 230 Of 2004

IN

SUMMARY SUIT NO. 3655 OF 2003

Navinchandra A. Doshi .. Plaintiff

versus

Ajay Mehta & ors. .. Defendants

...

Mr.R.V. Vengurlekar or the plaintiff.

Mr.Piyush Shah for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 9th February 2005.

P.C.:

1. Heard the learned counsel for the plaintiff and the defendant.

2. The learned counsel through his counsel gives up the claim for interest prior to the date of the suit.

3. The plaintiff has filed this suit for recovery

of the sum of Rs.5,01,000/- advanced to the defendant by two pay orders dated 26th July 2000 and 27th July 2000 (Exh-A and Exh-A1 to the plaint) Summons for Judgement was served on the defendant on 26th March 2004. The defendant admits receipt of the Summons for Judgement.

4. Despite service of Summons for Judgement, the defendant has not filed an application for leave to defend nor has he filed an affidavit in reply. In the absence of any affidavit of denial, the averments made in the plaint are deemed to be admitted. The plaintiff is also entitled to a decree under clause(a) of sub rule (6) of Rule 3 of Order 37 of the Code of Civil Procedure. Hence, Summons for Judgement is made absolute and the suit of the plaintiff is decreed as follows:-

5. The defendant shall pay to the plaintiff a sum of Rs.5,01,000/- together with interest thereon at 12% p.a. from the date of the suit till payment and all costs of the suit.

6. Issue court fee refund certificate as per rules.

D.G. KARNIK, J